

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

David Lane Johnson,

Plaintiff,

-v-

National Football League Players  
Association, et al.,

Defendants.

No. 1:17-cv-05131 (RJS)

Judge Richard J. Sullivan

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*Affidavit of David R. Vance*

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Now comes David R. Vance who, being first duly sworn and cautioned pursuant to law, declares under penalty of perjury that the following is true and correct:

1. I am over the age of 18 and have personal knowledge of the facts and circumstances described herein.

2. I am an attorney and, along with attorneys Stephen Zashin and Patrick Hoban, represent David Lane Johnson ("Johnson") in this litigation. We also represented Johnson throughout the arbitration process underlying this litigation arising from the application of the NFL Policy on Performance-Enhancing Substances 2015 ("PES Policy").

3. On approximately September 20, 2016, I reviewed the biography of James H. Carter and all other information available concerning him on the website of Wilmer, Cutler, Pickering, Hale, and Dorr, LLP ("WilmerHale") at: [https://www.wilmerhale.com/James\\_Carter/](https://www.wilmerhale.com/James_Carter/).

4. The information I reviewed on the WilmerHale website made no mention of Mr. Carter's selection as an arbitrator for the PES Policy or the NFL Policy and Program on Substances of Abuse 2015 ("SOA Policy").

**EXHIBIT 1**

5. Exhibit 5 to Plaintiff David Lane Johnson's Reply to the NFL Defendants' Opposition to Plaintiff's Motion to Vacate the Arbitration Award is a true and complete copy of the September 21, 2016 letter I sent to the National Football League Management Council, including carbon copies to arbitrator James Carter and the National Football League Players Association.

6. On November 17, 2016, in the course of representing National Football League player Michael Pennel, Jr. in an appeal of discipline under the SOA Policy, my firm received a letter from National Football League Senior Labor Relations Counsel Kevin K. Manara through which I learned for the first time that Mr. Carter simultaneously served as an arbitrator under the SOA Policy and the PES Policy.

7. On December 2, 2016, in the course of representing Mr. Pennel, I received an email from Mr. Carter who for the first time cited a purported engagement letter with the NFL and NFLPA and stated for the first time "The only Firm representation within the foregoing categories at present of which I am aware is advice by the Firm to the NFL with respect to a team ownership matter unrelated to any player issue." A true and accurate copy of this email is Doc. No. 116-21.

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8. Exhibit 2 to Johnson's Reply to the NFL Defendants' Opposition to Plaintiff's Motion to Vacate an Arbitration Award and Exhibit 2 to Johnson's Reply to the NFLPA's Memorandum in Opposition to Plaintiff's Motion to Vacate an Arbitration Award is a true copy of excerpts from the transcript of Johnson's October 4, 2016 arbitration hearing. A true and complete copy of the entire October 4, 2016 arbitration hearing transcript can be found at Doc. No. 52-4.

Dated this 8<sup>th</sup> day of November 2017.



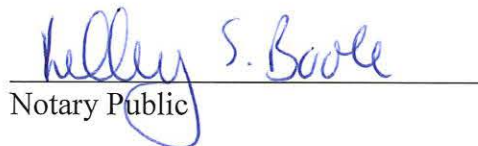
David R. Vance

STATE OF Ohio )  
COUNTY OF Cuyahoga ) ss:

9th The foregoing Affidavit of David R. Vance was subscribed and sworn to me this day of November, 2017, by David R. Vance.

Witness my hand and official seal.

My commission expires March 19, 2022.

  
Notary Public

KELLEY BOOLE  
NOTARY PUBLIC - OHIO  
MY COMMISSION EXPIRES  
MARCH 19, 2022